

This Court should allow intervention if Petitioner satisfies four criteria: 1) the application is “timely”; 2) the applicant claims an interest relating to the subject of the action; 3) the applicant’s interest “may as a practical matter” be impaired by the action; and 4) the applicant’s interest is not adequately represented by existing parties. Coalition of Arizona/New Mexico Counties v. Del2t of the Interior, 100 F.3d 837 (10th Cir.1996).

I. Petitioner has an interest relating to the subject of the action.

Petitioner has a vital interest in these subfile proceedings--the nature of its legal status is at stake. The undersigned counsel entered an appearance for the Maestas-Sanchez Ditch in this proceeding on July 26, 2000. See Attachment 1. The ditch diverts water from the Rio Capulin. The Office of State Engineer (“OSE”) Hydrographic Survey Bureau omitted this ditch in its 2000 Hydrographic Survey Report. The ditch is now shown on amended Hydrographic Survey maps as “Unnamed Ditch No. 1.”

Currently, the Maestas-Sanchez Ditch is a community acequia. The ditch provides water from the Rio Capulin to five tracts of land. These tracts of land have now been mapped by the OSE and are identified by four OSE subfile numbers. Of these four subfiles, the OSE has recognized one as having valid water rights (the subfile at the farthest reach of the ditch, subfile 4-006, which consist of two tracts of land). Another subfile, subfile Nos. 4-005, was adjudicated by Default Order on September 15, 2002 (Docket No. 6870) as having “no right.” This leaves the two subfiles (subfile 4-003 owned by water rights claimant Faye Davis and subfile 4-004 owned by water rights claimant Abram Cordova) that are the subject of the upcoming hearings.

Should either subfile be determined as having “no right,” there is the very real possibility that only one subfile on the ditch (subfile 4-006) will be recognized as having water rights, and that the ditch will lose its status as a “community” acequia. With this change in status comes a

concomitant loss of the powers and responsibilities of community ditches as set forth in NMSA 1978, §§73-2-1 *et seq.*, and the opportunities and support afforded by the state legislature in NMSA 1978, §§73-2A-1 *et seq.*

Therefore, Petitioner's interests are direct, and not contingent, and Petitioner should be given leave to intervene. As a practical matter, due to the Acequia and Community Ditch Fund Act, NMSA 1978 73-2A-1 *et seq.*, Petitioner is now in a financial position to defend its interests. However, Petitioner may lose this funding as a direct consequence of these proceedings. Petitioner's interests may, as a very practical matter, be impaired if it is not allowed to intervene at this point.

The two remaining individual subfile owners do not and can not adequately represent Petitioner's interest. Petitioner has already been impaired, through one default order, by a loss of one of its members. The loss of either of the two remaining tracts will result in a change in the corporate status of the ditch.

Petitioner has been an active participant in these proceedings to this point. No party will be disadvantaged by formalizing Petitioner's status at this stage in the litigation. No new discovery is necessary, nor will Petitioner's intervention result in a delay in these proceedings.

WHEREFORE, for the reasons stated above, Petitioner respectfully prays that the Court grant this Motion and give leave to Petitioner to intervene in individual sub file causes 4-003 and 4-004.

Respectfully submitted,



MARY E. HUMPHREY

Attorney for Maestas-Sanchez Ditch

P. O. Box 1574
El Prado, NM 87529-1574
(505) 758-2203

CERTIFICATE OF SERVICE

I certify that a copy of this pleading was mailed to the following persons on the 30th day of December, 2002.

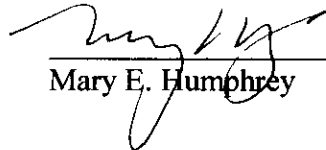
Ed Newville, Esq.
P. O. Box 25102
Santa Fe, NM 87504

Special Master Vickie Gabin
U.S.District Court
P. O. Box 2384
Santa Fe, NM 87504-2384

Darcy Bushnell, Adj.
USDC/DNM
333 Lomas Blvd. NE
Albuquerque, NM 87102

Abram Cordova
P. O. Box 91
Gallina, NM 87017

Faye Davis
P. O. Box 170
Gallina, NM 87017



Mary E. Humphrey

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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Robert Marshall
CLERK-SANTA FE

STATE OF NEW MEXICO on the)
relation of the State Engineer,)
and THE UNITED STATES OF)
AMERICA,)

Plaintiffs,)

v.)

RAMON ARAGON et al.)

Defendants)

No. CIV 7941-JC


RIO CHAMA STREAM SYSTEM

Section 5 Rio Gallina

ENTRY OF APPEARANCE

MARY E. HUMPHREY, Esq. enters her appearance for Acequia de Los Vigiles, Cordova-Martinez Ditch, Mestas-Sanchez Ditch, Cecilia Ditch, Acequia Rincon, Acequia Placitas, Chavez Acequia, Gonzales-Gurule Acequia, Valdez Acequia and the Gallina-Capulin Acequia Association in Section 5 of the case referenced above.

Respectfully submitted,



MARY E. HUMPHREY
P. O. Box 1574
El Prado, NM 87529
(505) 758-2203

ATTACHMENT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO on the)	
relation of the State Engineer,)	
and THE UNITED STATES OF)	
AMERICA,)	
)	
Plaintiffs,)	
)	
v.)	No. CIV 7941-JC
)	RIO CHAMA STREAM SYSTEM
RAMON ARAGON et al.)	
)	Section 5 Rio Gallina
Defendants)	Subfiles No. 4-003 and 4-004

MAESTAS-SANCHEZ DITCH'S ANSWER IN INTERVENTION.

COMES NOW Maestas-Sanchez Community Ditch, on behalf of itself and its individual members, by and through their undersigned counsel, in answer to the complaints by Plaintiff State of New Mexico ex rel. State Engineer regarding the water rights for Subfile 4-003 claimant Faye Davis and Subfile 4-004 claimant Abram Cordova and states the following:


1. Maestas-Sanchez Ditch is a community ditch that diverts water from the Rio Capulin, a tributary of the Rio Gallina, itself a tributary of the Rio Chama stream system.
2. Maestas-Sanchez Ditch has been joined as a Defendant in the adjudication of the Rio Gallina stream system.
3. The members of the Maestas-Sanchez Ditch are water users who withdraw water from the Rio Capulin, which is a tributary of the Rio Gallina.
4. Upon information and belief, Subfile 4-003 claimant Faye Davis and Subfile 4-004 claimant Abram Cordova claim rights to utilize the Cordova- Martinez Ditch as a means of diversion of their respective water rights.

5. Maestas-Sanchez Ditch is without sufficient knowledge or information either to admit deny that the State of New Mexico's offer of no water rights to Sub file 4-0003 claimant Faye Davis, and therefore denies the same.

6. Maestas-Sanchez Ditch is without sufficient knowledge or information either to admit or deny that the State of New Mexico's offer of no water rights to Sub file 4-0004 claimant Abram Cordova has any basis in fact, and therefore denies the same.

WHEREFORE, Maestas-Sanchez Ditch respectfully asks this Court to adjudicate claimants' water rights equitably and in a manner consistent with Maestas-Sanchez Ditch's recognition of claimants' rights to divert water through the Maestas-Sanchez Ditch.

Respectfully submitted,


MARY E. HUMPHREY
Attorney for Maestas-Sanchez Ditch
P. O. Box 1574
El Prado, NM 87529-1574
(505) 758-2203

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Mary E. Humphrey

Ed Newville, Esq.
P. O. Box 25102
Santa Fe, NM 87504

Special Master Vickie Gabin
U.S. District Court
P. O. Box 2384
Santa Fe, NM 87504-2384

Darcy Bushnell, Adj.
USDC/DNM
333 Lomas Blvd. NE
Albuquerque, NM 87102

Abram Cordova
P. O. Box 91
Gallina, NM 87017

Faye Davis
P. O. Box 170
Gallina, NM 87017